

KAGEN, CASPERSEN & BOGART PLLC
ATTORNEYS ADMITTED IN NEW YORK, NEW JERSEY AND CALIFORNIA

757 THIRD AVENUE, 20TH FLOOR
NEW YORK, NEW YORK 10017
(212) 880-2045
(646) 304-7879 (FACSIMILE)

September 13, 2021

Via ECF

Honorable Andrew L. Carter, Jr.
United States District Court
Southern District of New York
40 Foley Square, Room 13067
New York, NY 10007

Re: *In re Bit Digital, Inc. Securities Litig.* (1:21-cv-00515-ALC)

Dear Judge Carter:

I am counsel for Defendants in the above-referenced action and write further to my letter of September 6 requesting a pre-motion conference regarding Defendants' anticipated motion to dismiss Plaintiffs' consolidated class action complaint (the "CAC") (Doc. No. 28) and in response to Plaintiffs' letter of September 9 requesting that the Court deny Defendants' application and direct Defendants to file their anticipated motion on September 13. (Doc. No. 29).

I believe a pre-motion conference is still needed. Rule 2(D)(i) of your Individual Rules specifies that "During a pre-motion conference to discuss a motion to dismiss, the non-moving party must advise the Court and its adversary whether it intends to file an amended pleading based on the pre-motion letter, and if so, when it will do so." Plaintiffs do not say in their September 9 letter whether or not they intend to amend the CAC, and if so, when.

If Plaintiffs do not intend to amend the CAC, Defendants are prepared to file their motion within 30 days of Plaintiffs so stating in a letter to the Court.

Respectfully Submitted,

Stuart Kagen

cc (via ECF): All Counsel of Record